

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

MARY BOYD, et vir
JAMES BOYD

CIVIL ACTION NO:

VERSUS

JUDGE

JEFF SLACK, INDIVIDUALLY AND DBA
SUPERIOR INVESTMENT HOLDING
CO., LLC; EARNEST DAYTON JOHNSON
AND DANIEL WAYNE HENSON

MAGISTRATE JUDGE

NOTICE OF REMOVAL

NOW COME defendants, SUPERIOR INVESTMENTS HOLDING CO., LLC and JEFF S. SLACK (hereinafter sometimes referred to as “defendants”), by and through undersigned counsel, by way of special appearance and without waiving but specifically reserving all jurisdictional defenses and other defenses available to them, and pursuant to 28 U.S.C. §§ 1442 and 1446, file this Notice of Removal within the time prescribed by law, showing this Court the following:

1.

On or about November 18, 2016, plaintiffs Mary Boyd and James Boyd (hereinafter sometimes referred to as “plaintiffs”), filed an Original Petition and Request for Discovery against Superior Investment [sic] Holding Co., LLC and Jeff Slack in the 276th/115th Judicial District Court in and for Marion County, Texas (hereinafter “Marion County Case”) which is within the Marshall Division of the United State District Court for the Eastern District of Texas.

2.

On or about November 21, 2016 plaintiffs filed a First Amended Petition and Request for Discovery against Daniel Wayne Henson and Earnest Dayton Johnson in the Marion County Case.

3.

Plaintiffs requested service on Superior Investments Holding Co., LLC in the Marion County Case at 101 Slack Group Lane, Minden, Louisiana 71055. Filed in the Marion County Case is a Citation for Personal Service with Service Return dated November 30, 2016.

4.

Plaintiffs requested service on Jeff S. Slack in the Marion County Case at 101 Slack Group Lane, Minden, Louisiana 71055. Filed in the Marion County Case is a Citation for Personal Service with Service Return dated November 30, 2016.

5.

Plaintiffs requested service on Daniel Wayne Henson in the Marion County Case at 2444 PR 7200, Jefferson, Texas 75657. Filed in the Marion County Case is a Citation for Personal Service with Service Return dated November 30, 2016.

6.

Plaintiffs requested service on Earnest Dayton Johnson in the Marion County Case at 189 Deep Valley Drive, Jefferson, Texas 75657. Filed in the Marion County Case is a Citation for Personal Service with Service Return dated November 30, 2016.

7.

On December 7, 2016, defendant Earnest Dayton Johnson filed an Original Answer, Pro Se, in the Marion County Case.

8.

On January 5, 2017, defendants Superior Investments Holding Co., LLC and Jeff S. Slack filed an Original Answer in the Marion County Case.

9.

An Order of Non-Suit was filed on March 2, 2017 as to defendants Daniel Wayne Henson and Earnest Dayton Johnson in the Marion County Case attached as Exhibit "A".

10.

True and correct copies of all petitions, answers, processes and orders that have been filed in connection with the Marion County Case are attached as Exhibit "B".

11.

The Marion County Case is a civil action over which this court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 and is one that may be removed to this court pursuant to U.S.C. § 1441(a) and (b) because it is a civil action between citizens of different states and the matter in controversy exceeds \$75,000.00 exclusive of interest and costs.

12.

The Original and First Amended Petitions filed in the Marion County Case list the citizenship of the plaintiffs as being in Rusk County, Texas. The Original and First Amended Petitions allege that defendants Earnest Dayton Johnson and Daniel Wayne

Henson can be served in Jefferson, Texas and defendants Superior Investments Holding Co., LLC and Jeff S. Slack can be served in Minden, Louisiana. In the Original and First Amended Petitions, plaintiffs have alleged that the damages are “in an amount in excess of \$200,000.00 but not more than \$500,000.00.”

13.

The original suit is by plaintiffs who are citizens of Texas filing suit against two defendants who were citizens of Texas (Henson and Johnson) and two defendants who are citizens of Louisiana (Superior Investments Holding Co., LLC and Jeff S. Slack). The non-diverse defendants (Henson and Johnson) were dismissed by non-suit on March 2, 2017. This notice of removal is being filed within 30 days of that Order which changed the Marion County Case to one of complete diversity.

14.

Superior Investments Holding Co., LLC is a limited liability company domiciled in the State of Louisiana. The sole member of the LLC, Jeff S. Slack, is a citizen of Louisiana. Attached as Exhibit “C” is the report from the Secretary of State of the State of Louisiana for Superior Investments Holding Co., LLC.

15.

As of the Order of Non-Suit on March 2, 2017, there is complete diversity of citizenship between plaintiffs and defendants in these proceedings. Plaintiffs have alleged their damages to be in excess of \$200,000.00. This Notice of Removal is timely under 28 U.S.C. § 1446(b)(3).

16.

Defendants hereby certify that they have given notice to plaintiffs and contemporaneously with this filing, will file a written notice with the clerk of 276th/115th Judicial District Court in and for Marion County, Texas, a copy of which is attached as Exhibit "D."

17.

The following is a list of all parties in this case:

Plaintiffs, Mary Boyd and James Boyd

Defendants, Superior Investments Holding Co., LLC and Jeff S. Slack

18.

The current status of the removed case is pending. The attorneys involved in this action are as follows:

Thomas H. Brown, TX Bar No. 03175650
Law Office of Thomas H. Brown, PLLC
116 N. Kilgore Street
Kilgore, Texas 75662
Tombrown@tombrownlaw.com
Phone (903) 984-0999
Fax (903) 984-3697
Attorney for plaintiffs, Mary Boyd and James Boyd

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Phone (318) 221-3444
Fax (318) 221-8811
Attorney for defendants, Superior Investments Holding Co., LLC and Jeff S. Slack

Plaintiffs and defendants have both requested trial by jury.

18.

This case is being removed from the following state court:

Marion County District Court
102 W Austin, Room 303
Jefferson, Texas 75657

19.

The undersigned has read this Notice and to the best of the undersigned's knowledge, information and belief, formed upon reasonable inquiry, it is well grounded in fact; it is warranted by existing law; and is not interposed for any improper purpose, such as to harass or to cause unnecessary delays or increase in costs of litigation.

WHEREFORE, defendants SUPERIOR INVESTMENTS HOLDING CO., LLC and Jeff S. Slack, remove this action from the 276th/115th Judicial District Court in and for Marion County, Texas to the United States District Court for the Eastern District of Texas, Marshall Division.

CASTEN & PEARCE, APLC

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By: /s/Brian D. Smith
Brian D. Smith, Texas Bar No. 0788848
ATTORNEYS FOR DEFENDANTS,
JEFF S. SLACK AND SUPERIOR
INVESTMENTS HOLDING CO., LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has this day been served upon all counsel of record via e-mail and/or facsimile and electronically with the Clerk of Court using the CM/ECF system.

Shreveport, Louisiana this the 29th day of March, 2017.

/s/Brian D. Smith
OF COUNSEL

STATE OF LOUISIANA

PARISH OF CADDO

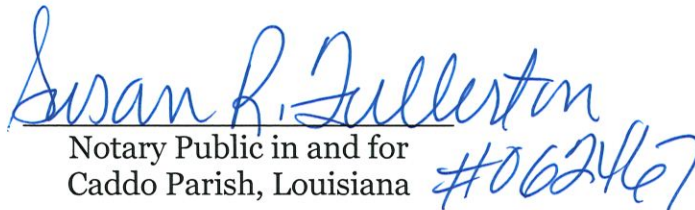
BEFORE ME, the undersigned authority, a Notary Public in and for the State and Parish aforesaid, personally came and appeared Brian D. Smith, who, after being first duly sworn, did depose and say that:

He is the attorney for the defendants, Superior Investments Holding Co., LLC and Jeff S. Slack, in the above and foregoing Notice of Removal; the copies of the documents listed in the Notice of Removal constitute all process, pleadings and orders served upon defendants in the Marion County suit, and all of the allegations of fact contained in the Notice of Removal are true and correct to the best of his knowledge, information and belief.



BRIAN D. SMITH

SWORN TO AND SUBSCRIBED before me, Notary Public, on this the 29th day of March, 2017.



Notary Public in and for
Caddo Parish, Louisiana #062467

Susan R. Fullerton
Notary Public in And For The Parish Of Webster
Commission Is For Life